

**Executive Summary – Enforcement Matter – Case No. 51229**  
**ROUGH CANYON CONDOS, L.L.C.**  
**RN101452266**  
**Docket No. 2015-1364-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Rough Canyon Condos, 7164 Rough Canyon Road 2 near Del Rio, Val Verde County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** January 22, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$2,203

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$203

**Total Due to General Revenue:** \$2,000

Payment Plan: 10 payments of \$200 each

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Unclassified

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** \$27

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** August 10, 2015 through August 21, 2015

**Date(s) of NOE(s):** August 21, 2015

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**ROUGH CANYON CONDOS, L.L.C.**  
**RN101452266**  
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***Violation Information***

1. Failed to collect lead and copper samples at the required five sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director ("ED") and failed to issue public notification and submit a copy of the public notification to the ED regarding the failure to collect lead and copper samples [30 TEX. ADMIN. CODE §§ 290.117(c)(2)(A)(i) and (i)(1), and 290.122(c)(2)(A) and (f)].
2. Failed to timely provide public notification and submit a copy of the public notification to the ED regarding the failure to submit the Disinfectant Level Quarterly Operating Report ("DLQOR") [30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent submitted public notification on September 9, 2015 for the failure to submit the DLQOR for the fourth quarter of 2014.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days:
  - i. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results reported to the ED within ten days following the end of each monitoring period;
  - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the ED; and
  - iii. Provide public notification regarding the failure to collect lead and copper samples for the January 1, 2014 through June 30, 2014 and July 1, 2014 through December 31, 2014 monitoring periods and provide a copy of the public notification to the ED.
- b. Within 45 days, submit written certification to demonstrate compliance with a.
- c. Within 90 days, begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the ED within ten days of the month following the end of the monitoring period. This provision will be satisfied upon two semiannual compliant monitoring periods.

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d. Within 465 days, submit written certification to demonstrate compliance with c.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Ryan Byer, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2571; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** John M. Weston, Manager, ROUGH CANYON CONDOS, L.L.C., 710 East Gibbs Street, Del Rio, Texas 78840  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	27-Aug-2015	<b>Screening</b>	3-Sep-2015	<b>EPA Due</b>	31-Dec-2015
	<b>PCW</b>	8-Sep-2015				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	ROUGH CANYON CONDOS, L.L.C.		
<b>Reg. Ent. Ref. No.</b>	RN101452266		
<b>Facility/Site Region</b>	16-Laredo	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	51229	<b>No. of Violations</b>	2
<b>Docket No.</b>	2015-1364-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Ryan Byer
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$910
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	25.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$227
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Notes: Enhancement for five NOV's with the same/similar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$1,050  
Estimated Cost of Compliance: \$1,175  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,137
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	91.4%	<b>Adjustment</b>	\$1,039
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance associated with Violation No. 1.

<b>Final Penalty Amount</b>	\$2,176
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,203
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$2,203
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Screening Date 3-Sep-2015

Docket No. 2015-1364-PWS-E

PCW

Respondent ROUGH CANYON CONDOS, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 51229

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101452266

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for five NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 25%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 25%

Screening Date 3-Sep-2015

Docket No. 2015-1364-PWS-E

PCW

Respondent ROUGH CANYON CONDOS, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 51229

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101452266

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.117(c)(2)(A)(i) and (i)(1), and 290.122(c)(2)(A) and (f)

## Violation Description

Failed to collect lead and copper samples at the required five sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director for the January 1, 2012 through June 30, 2012 monitoring period, January 1 through June 30 and July 1 through December 31 monitoring periods for 2013 and 2014, and the January 1, 2015 through June 30, 2015 monitoring period and failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper samples for the January 1, 2014 through June 30, 2014, and July 1, 2014 through December 31, 2014 monitoring periods.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect lead and copper samples and provide public notification could expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 6

1091 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	x
	annual	
	single event	

Violation Base Penalty \$900

Six semiannual events are recommended (one for each monitoring period in which samples were not collected).

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$900

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,049

Violation Final Penalty Total \$2,153

This violation Final Assessed Penalty (adjusted for limits) \$2,153

# Economic Benefit Worksheet

Respondent ROUGH CANYON CONDOS, L.L.C.  
Case ID No. 51229  
Reg. Ent. Reference No. RN101452266  
Media Public Water Supply  
Violation No. 1

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	10-Aug-2015	12-Apr-2016	0.67	\$3	n/a	\$3
Training/Sampling	\$100	10-Aug-2015	12-Apr-2016	0.67	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	1-Oct-2014	12-Apr-2016	1.53	\$4	n/a	\$4

## Notes for DELAYED costs

The record keeping delayed costs include the estimated amount to implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future lead and copper samples are collected by the Facility's personnel, analyzed by the Facility's laboratories, and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

The training/sampling delayed costs include the estimated amount to implement procedures to ensure that all necessary public notifications are provided in a timely manner, calculated from the record review date to the estimated date of compliance.

The other delayed costs include the estimated amount to ensure that all delinquent public notifications (\$25 per notification x two notifications) are provided to persons served by the Facility and a copy of the public notification is provided to the Executive Director, calculated from the due date of earliest public notification to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	1-Jan-2012	30-Jun-2012	1.41	\$11	\$150	\$161
Other (as needed)	\$750	1-Jan-2013	30-Jun-2015	3.41	\$128	\$750	\$878

## Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to collect and have all lead and copper samples analyzed (\$30 per sample x five samples x six monitoring periods), calculated for the monitoring periods in which samples were required.

Approx. Cost of Compliance \$1,150

TOTAL \$1,049



Screening Date 3-Sep-2015

Docket No. 2015-1364-PWS-E

PCW

Respondent ROUGH CANYON CONDOS, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 51229

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101452266

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.122(c)(2)(A) and (f)

Violation Description

Failed to timely provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit the Disinfectant Level Quarterly Operating Report for the fourth quarter of 2014.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirements were not met.

Adjustment \$990

\$10

## Violation Events

Number of Violation Events 1

90 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$10

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$10

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$24

This violation Final Assessed Penalty (adjusted for limits) \$50

# Economic Benefit Worksheet

**Respondent** ROUGH CANYON CONDOS, L.L.C.  
**Case ID No.** 51229  
**Reg. Ent. Reference No.** RN101452266  
**Media** Public Water Supply  
**Violation No.** 2

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/Construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$25	1-Apr-2015	9-Sep-2015	0.44	\$1	\$1

### Notes for DELAYED costs

The other delayed costs include the estimated amount to ensure that the delinquent public notification (\$25 per notification) is provided to persons served by the Facility and a copy of the public notification is provided to the Executive Director, calculated from the due date of the public notification to the date the public notification was received.

Additional delayed costs to implement public notification procedures are included in the Economic Benefit of Violation No. 1.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

**Approx. Cost of Compliance** \$25 **TOTAL** \$1



## TCEQ Compliance History Report

**PENDING** Compliance History Report for CN603809377, RN101452266, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

**Customer, Respondent, or Owner/Operator:** CN603809377, ROUGH CANYON CONDOS, L.L.C. **Classification:** UNCLASSIFIED **Rating:** -----

**Regulated Entity:** RN101452266, ROUGH CANYON CONDOS **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 7164 ROUGH CANYON ROAD 2 NEAR DEL RIO, VAL VERDE COUNTY, TEXAS

**TCEQ Region:** REGION 16 - LAREDO

**ID Number(s):**  
**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 2330047

**Compliance History Period:** September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

**Date Compliance History Report Prepared:** September 29, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** September 11, 2010 to September 11, 2015

### **TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Ryan Byer

**Phone:** (512) 239-2571

### **Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

### **Components (Multimedia) for the Site Are Listed in Sections A - J**

#### **A. Final Orders, court judgments, and consent decrees:**

N/A

#### **B. Criminal convictions:**

N/A

#### **C. Chronic excessive emissions events:**

N/A

#### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

#### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	11/07/2014 (1273466)	CN603809377
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)(i)	

30 TAC Chapter 290, SubChapter F 290.117(i)(1)

Description: LCR IN MR 1st 6M2014 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the initial six-month monitoring period from 01/01/2014 to 06/30/2014 within the required timeline.

- 2      Date: 01/28/2015 (1273466)      CN603809377  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.117(i)(1)  
Description: LCR IN MR 2nd 6M2014 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the initial six-month monitoring period from 07/01/2014 to 12/31/2014 within the required timeline.
- 3      Date: 03/04/2015 (1273466)      CN603809377  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: LCR IN MR PN 1st 6M2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a distribution initial lead and copper monitoring and reporting violation for the six-month monitoring period from 01/01/2014 to 06/30/2014.
- 4      Date: 05/26/2015 (1273466)      CN603809377  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: LCR IN MR PN 2nd 6M2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a distribution initial lead and copper monitoring and reporting violation for the six-month monitoring period from 07/01/2014 to 12/31/2014.
- 5      Date: 08/03/2015 (1273466)      CN603809377  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.117(i)(1)  
Description: LCR IN MR 1st 6M2015 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the initial six-month monitoring period from 01/01/2015 to 06/30/2015 within the required timeline.  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: DLQOR MR PN 4Q2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the fourth quarter of 2014.

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

**All NOV's Issued During Component Period 9/11/2010 and 9/11/2015**

Page 3

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: DLQOR MR PN 4Q2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the fourth quarter of 2014.

\* NOVs applicable for the Compliance History rating period 9/1/2010 to 8/31/2015

## Appendix B

### All Investigations Conducted During Component Period September 11, 2010 and September 11, 2015

(1273466)

Item 1 August 14, 2015\*\* For Informational Purposes Only

(1273670)

Item 2 August 18, 2015\*\* For Informational Purposes Only

(1273792)

Item 3 August 21, 2015\*\* For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2010 and 08/31/2015.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ROUGH CANYON CONDOS, L.L.C.  
RN101452266**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2015-1364-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ROUGH CANYON CONDOS, L.L.C. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply located at 7164 Rough Canyon Road 2 near Del Rio, Val Verde County, Texas (the "Facility") that has approximately 25 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from August 10, 2015 through August 21, 2015, TCEQ staff documented that the Respondent did not collect lead and copper samples at the required five sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director for the January 1, 2012 through June 30, 2012 monitoring period, January 1 through June 30 and July 1 through December 31 monitoring periods for 2013 and 2014, and the January 1, 2015 through June 30, 2015 monitoring period and failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper samples for the January 1, 2014 through June 30, 2014, and July 1, 2014 through December 31, 2014 monitoring periods.
3. During a record review conducted from August 10, 2015 through August 21, 2015, TCEQ staff documented that the Respondent did not timely provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit the Disinfectant Level Quarterly Operating Report ("DLQOR") for the fourth quarter of 2014.
4. The Respondent received notice of the violations on August 24, 2015.
5. The Executive Director recognizes that the Respondent submitted public notification on September 9, 2015, for the failure to submit the DLQOR for the fourth quarter of 2014.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect lead and copper samples at the required five sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director and failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper samples, in violation of 30 TEX. ADMIN. CODE §§ 290.117(c)(2)(A)(i) and (i)(1), and 290.122(c)(2)(A) and (f).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to timely provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit the DLQOR, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.



5. An administrative penalty in the amount of Two Thousand Two Hundred Three Dollars (\$2,203) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid Two Hundred Three Dollars (\$203) of the administrative penalty. The remaining amount of Two Thousand Dollars (\$2,000) of the administrative penalty shall be payable in ten monthly payments of Two Hundred Dollars (\$200) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Two Hundred Three Dollars (\$2,203) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: ROUGH CANYON CONDOS, L.L.C., Docket No. 2015-1364-PWS-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results

reported to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117;

- ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
  - iii. Provide public notification regarding the failure to collect lead and copper samples for the January 1, 2014 through June 30, 2014 and July 1, 2014 through December 31, 2014 monitoring periods and provide a copy of the public notification to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii.
- c. Within 90 days after the effective date of this Agreed Order, begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117. This provision will be satisfied upon two semiannual compliant monitoring periods.
- d. Within 465 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission,

including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

  
For the Executive Director

3/10/16  
Date

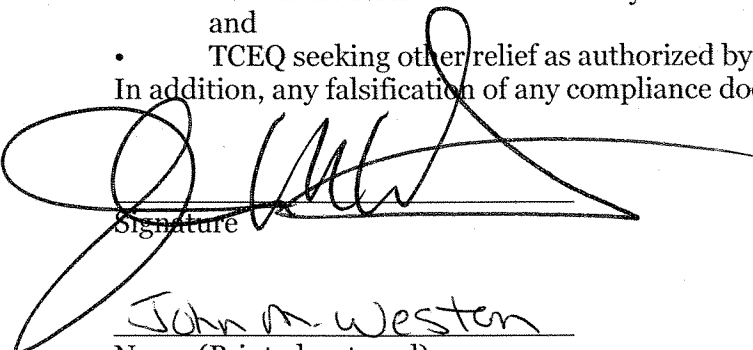
I, the undersigned, have read and understand the attached Agreed Order in the matter of ROUGH CANYON CONDOS, L.L.C. I am authorized to agree to the attached Agreed Order on behalf of ROUGH CANYON CONDOS, L.L.C., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, ROUGH CANYON CONDOS, L.L.C. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

12/1/15  
Date

John M. Weston  
Name (Printed or typed)  
Authorized Representative of  
ROUGH CANYON CONDOS, L.L.C.

Mgr.  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.